

ORDINANCE NO. 2000- 038

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, TO BE ENTITLED "LOCKING DEVICES REQUIRED FOR FIREARMS"; REQUIRING LOCKING DEVICES ON FIREARMS STORED IN PALM BEACH COUNTY; CREATING A PUBLIC DUTY; PROVIDING PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Palm Beach County is charged with protecting the public health, safety and welfare of its citizens; and,

WHEREAS, each year in the nation, in the State of Florida and in Palm Beach County, Florida, a multitude of children gain access to firearms that are stored in their homes with the painful result that many innocent persons are injured, maimed or killed; and,

WHEREAS, the Board of County Commissioners recognizes that the Florida Legislature preempted the field of regulation of firearms as provided by Section 790.33, Florida Statutes, and that it specified the subject matter over which counties are excluded from enacting ordinances. Providently, by specifying the subject matter that counties may not regulate, the Florida Legislature omitted mention of regulation of the storage of firearms. The Board of County Commissioners acknowledges that the Florida Legislature is presumed to have intentionally omitted the regulation of the storage of firearms from its preemption of the specified subject matter. By enacting this Ordinance, it is the intent of the Board of County Commissioners to provide for public safety in the storage of firearms in the limited area that is not preempted by the Florida Legislature; and,

WHEREAS, the Board of County Commissioners desires to establish a standard of care for the safe storage of firearms in residences to reduce the likelihood that children and others will be injured by guns.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1. DEFINITIONS:

"Locking device" means a device that when installed on a firearm and secured by means of a key or a mechanically or electronically operated combination lock prevents the firearm from being discharged without first deactivating or removing the device.

1 **Section 2. SECURING FIREARM:**

2 If a person stores or leaves a firearm at any location where the person knows or reasonably
3 should know that a minor might gain access to the firearm, the person shall secure the firearm with
4 a locking device except when it is carried on his or her body or is located within such close
5 proximity that the person can retrieve the firearm and prevent access to it by a minor.

6 **Section 3. BREACH OF DUTY:**

7 A violation of this Ordinance is a breach of a duty of safety owed by the person who owns
8 or possesses the firearm to all minors who might gain access to it and to the general public.

9 **Section 4. PENALTY:**

10 Failure to comply with the requirements of this Ordinance shall subject the violator to a fine
11 not to exceed five hundred dollars (\$500.00) per violation.

12 **Section 5. APPLICABILITY:**

13 The provisions of this Ordinance shall be applicable in the unincorporated and incorporated
14 areas of Palm Beach County.

15 **Section 6. SEVERABILITY:**

16 If any section, clause, sentence, or phrase of this Ordinance is for any reason held invalid or
17 unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the
18 remaining portions of this Ordinance.

19 **Section 7. REPEAL OF LAWS IN CONFLICT:**

20 All local laws and Ordinances in conflict with any provisions of this Ordinance are hereby
21 repealed to the extent of such conflict.

22 **Section 8. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

23 The provisions of this Ordinance shall become and be made a part of the Code of Laws and
24 Ordinances of Palm Beach County, Florida. The sections of this Ordinance may be renumbered or
25 relettered to accomplish such, and the word "ordinance" may be changed to "section", "article", or
26 other appropriate word.

27 **Section 9. EFFECTIVE DATE:**

28 The provisions of this Ordinance shall become effective upon filing with the Department of
29 State.
30

1 APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County,

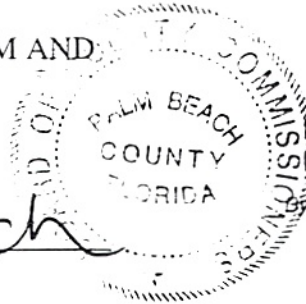
2 Florida, on this the 31 day of October, 2000.

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4 PALM BEACH COUNTY, FLORIDA, BY ITS
5 BOARD OF COUNTY COMMISSIONERS

6 By: Mande Ford Lee
7 Chair

8 APPROVED AS TO FORM AND
9 LEGAL SUFFICIENCY

10 By: DMB
11 County Attorney



DOROTHY H. WILKEN, CLERK
Board of County Commissioners
By: Glenn C. Hickman
DEPUTY CLERK

12 EFFECTIVE DATE: Filed with the Department of State on the 8th day of November, 2000.

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STATE OF FLORIDA, COUNTY OF PALM BEACH
I, DOROTHY H. WILKEN, ex-officio Clerk of the
Board of County Commissioners certify this to be a
true and correct copy of the original filed in my office
on October 31, 2000
3 DATED at West Palm Beach, FL on 11/21/00
DOROTHY H. WILKEN, Clerk
By: Miane Brown D.C.